



PATENT APPLICATION

OUR FILE NO. 20010483.DIV

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Re App : Ronald O. Bubar
S.N. : 09/535,067
Filed : March 23, 2000 : Art Unit 1761
For : LAMINATED PIZZA CRUST : Examiner T. Tran Lien

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COMMISSIONER OF PATENTS AND TRADEMARKS
WASHINGTON, D.C. 20231

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Dear Sir:

SUPPLEMENTAL DECLARATION OF RONALD O. BUBAR
UNDER 37 C.F.R. 1.132

I hereby declare that:

1. I am the inventor in the above-captioned application for patent.
2. That on September 30, 1999, I executed a Declaration Under 37 C.F.R. 1.132 that was submitted in the parent case (Serial No. 08/968,900, now U.S. Patent No. 6,126,977) and resubmitted in the present application with the Amendment of May 10, 2001.
3. I have been advised by our company's new patent counsel that the earlier Declaration was somehow found to be deficient in failing to provide factual evidence to substantiate certain of the averments made therein. This present Declaration is submitted to address those deficiencies.
4. Specifically, in paragraphs 10-21 of my Declaration of September 30, 1999, I compared the texture of the pizza crust of the present invention with that produced using the method described in the prior art Paulucci '882 patent, but provided no evidence to substantiate the conclusions reached in those averments. This

Supplemental Declaration is to supply the evidentiary support for the statements I made in the earlier Declaration.

5. Attached hereto as Exhibit 1 is an 8" x 10" color photo of a cross-section of a once frozen, but later thawed and microwave cooked pizza whose laminated crust dough is as defined by claims 12-20 currently pending in the above-captioned application.

6. Attached hereto as Exhibit 2 is an 8" x 10" color photo of a slice of pizza whose crust is like that produced in a pressed crust process like that described in the Paulucci '882 patent.

7. By comparing these two photos, one can clearly see the presence of plural large-flaked layers resembling those in a croissant in the photo of Exhibit 1. In the crust of Exhibit 2, one can also see the bread-like texture of the crust where large, round open pores have been collapsed creating a cardboard-like structure that I testified to in my earlier Declaration.

8. The photograph of Exhibit 1 shows that the crust resulting when a sheet of dough is first layered with margarine and then repeatedly folded as set out in pending claim 12 and further processed in accordance with dependent claims 13-16 produces an altogether different crust consistency than results when a method like that described in the Paulucci '882 patent is employed in producing the pizza crust.

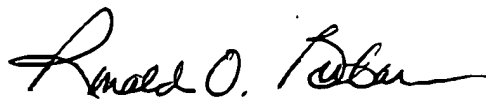
9. In Example 6 described in the Paulucci '882 patent, sheets of dough are laminated with solid shortening flakes between the layers. Following that, this stack is again sheeted, which results in the shortening flakes being squeezed into the dough. Upon cooking, the flakes melt, leaving voids in the crust much like the open pores in a loaf of bread. Layering is no longer visible. (See Ex. 2). In the case of the present invention, the extruded, semi-solid margarine layers between the folded dough layers do not become squeezed into the dough as shortening flakes do. Hence, upon cooking, the dough layers remain somewhat separated with the flaky layering being evident in the cross-sectioned view of the crust. (See Ex. 1).

10. Because of the improved microwaveability and quality of the crust resulting from the practice of the present invention, Luigino's, Inc. does not use the earlier '882 method in producing its line of frozen pizzas, but instead uses the method

described in the parent '977 patent to produce the crust defined by claims 12-20 of the present application.

11. I declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements are made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment or both under Section 1001 of Title 18 of the United States Code, and that such willful and false statements may jeopardize the validity of this application or any patent issued thereon.

Dated: Nov 27, 2001.



Ronald O. Bubar